

Introduced by Senator Anderson

February 22, 2013

An act to add Section 515.3 to the Labor Code, relating to employment.

LEGISLATIVE COUNSEL'S DIGEST

SB 554, as amended, Anderson. Employment: overtime compensation.

Existing law, with certain exceptions, establishes 8 hours as a day's work and a 40-hour workweek, and requires payment of prescribed overtime compensation for additional hours worked. Existing law, except as specified, requires compensation for any work in excess of 8 hours in one workday at the rate of no less than 1.5 times the regular rate of pay for an employee, and compensation for any work in excess of 12 hours in one day at twice the regular rate of pay for an employee. Under existing law, a person who violates the provisions regulating work hours is guilty of a misdemeanor.

This bill would exempt employees of 24-hour nonmedical out-of-home licensed residential facilities of 15 beds or fewer for the developmentally disabled, elderly, or mentally ill adults from the above-described provisions, and would ~~authorize overtime pay at specified rates for all hours worked by those employees in excess of 40 or 48 hours in a workweek, or in excess of 16 hours in a workday.~~ The bill would prohibit *those* employees from working more than 24 consecutive hours, until the employee receives at least 8 hours of off-duty period, as specified. *The bill would specify that, for these employees, time spent sleeping during the employee's 24-hour on-duty period shall not be*

included as hours worked for the purpose of calculating overtime and would require that time to be compensated at the minimum wage. Because a violation of these provision would be a misdemeanor, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 515.3 is added to the Labor Code, to
2 read:

3 515.3. Employees of 24-hour nonmedical out-of-home licensed
4 residential facilities of 15 beds or fewer for the developmentally
5 disabled, elderly, or mentally ill adults may *work the following*
6 *hours or schedule*, without violating any provision of this chapter
7 or any applicable order of the ~~commission~~, ~~be compensated as~~
8 ~~follows~~: *commission*:

9 ~~(a) An employee who works in excess of 40 hours in a~~
10 ~~workweek shall be compensated at one and one-half times the~~
11 ~~employee's regular rate of pay for all hours over 40 hours in the~~
12 ~~workweek.~~

13 ~~(b) An employee shall be compensated at two times the~~
14 ~~employee's regular rate of pay for all hours in excess of 48 hours~~
15 ~~in the workweek.~~

16 ~~(c) An employee shall be compensated at two times the~~
17 ~~employee's regular rate of pay for all hours in excess of 16 in a~~
18 ~~workday.~~

19 ~~(d)~~
20 ~~(a) An employee may shall not work more than 24 consecutive~~
21 ~~hours until the employee receives not less than eight consecutive~~
22 ~~hours off-duty immediately following the 24 consecutive hours of~~
23 ~~work. Time~~

24 ~~(b) Time spent sleeping during the employee's 24-hour on-duty~~
25 ~~period shall not be included as hours worked for the purpose of~~

1 *calculating overtime. Time spent sleeping shall be compensated*
2 *at the minimum wage.*

3 SEC. 2. No reimbursement is required by this act pursuant to
4 Section 6 of Article XIII B of the California Constitution because
5 the only costs that may be incurred by a local agency or school
6 district will be incurred because this act creates a new crime or
7 infraction, eliminates a crime or infraction, or changes the penalty
8 for a crime or infraction, within the meaning of Section 17556 of
9 the Government Code, or changes the definition of a crime within
10 the meaning of Section 6 of Article XIII B of the California
11 Constitution.

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